



Global Initiative to
**End All Corporal Punishment
of Children**

MALI

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 2nd session, 2008

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Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General’s Study on Violence against Children, as a highly significant issue, both for asserting children’s status as rights holders and for the prevention of all forms of violence.

The Global Initiative to End All Corporal Punishment of Children has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights, and the Human Rights Committee. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states’ response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.

In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies and also regional human rights mechanisms have condemned all corporal punishment. In October 2006, the report of the UN Secretary General’s Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment, setting a goal of 2009.

This briefing describes the gaps in prohibition in Mali, despite repeated recommendations by the Committee on the Rights of the Child.

We hope the Review will highlight with concern Mali’s record of ignoring treaty body recommendations and strongly recommend that Mali introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including in the home.

I: Legality of corporal punishment in Mali

The home

Corporal punishment is lawful in the **home**. Article 84 of the Family Relations Code (1973) states that “the authority of the father comprises a right to custody, of management, surveillance and correction”.

Children are given limited protection from violence by the Code on the Protection of the Child (2002), which includes provisions against repeated violations of their integrity and all acts of brutality likely to harm their emotional, psychological or physical balance (article 56). As at February 2007, a draft Individuals and Family Code was under discussion. Under examination by the Committee on the Rights of the Child in January 2007, the government delegation stated its commitment to implementation of all the recommendations of the UN Secretary General’s Study on Violence against Children.

Schools and other settings

Corporal punishment is prohibited in **schools**, under internal regulations No. 94-4856/MEB-CAB of 8 April 1994 (fundamental schools), No. 94-4999/MEB/CAB (special education institutions) and No. 94-5000 of 15 April 1994 (kindergartens). It is reportedly practised in coranic schools and in the “medersas” (Moslem Theology Schools).

In the **penal system**, corporal punishment is unlawful as a sentence for crime. It is considered unlawful as a disciplinary measure in penal institutions, but there is no explicit prohibition. The Constitution (article 3) prohibits “torture or inhuman, degrading or humiliating treatment or punishment”. Decree No. 88-002 (1988) governing the penitentiary system forbids staff from using acts of violence on convicts (article 105) and does not include corporal punishment among permitted punishments for disciplinary offences (article 112), do not include corporal punishment. Article 14 of the Code on the Protection of the Child states that a child placed in a protective educational or rehabilitative institution, or in a place of detention, has the right to physical and moral protection.

In **alternative care settings**, corporal punishment is prohibited in some institutions and childcare settings, including the Bollé Observation and Rehabilitation Centre and the SOS Children’s Villages, but there is no explicit prohibition in legislation.

II: Recommendations by human rights treaty monitoring bodies

In its concluding observations on the state party’s second report in May 2007, the **Committee on the Rights of the Child** expressed regret that its previous (1999) recommendations regarding corporal punishment had not been sufficiently addressed (CRC/C/MLI/CO/2, para. 6). The Committee reiterated its concerns and recommended prohibition in all settings, including the family home (paras. 39 and 40):

“The Committee appreciates the efforts undertaken by the State party to combat corporal punishment by implementing legislative, administrative, social and educational measures. However, it remains concerned that corporal punishment is lawful in the home and that it is used within families, Koranic schools and alternative-care settings, and not explicitly prohibited in penal institutions.

“The Committee urges the State party, while taking into account general comment No. 1 on the aims of education (CRC/GC/2001/1) and general comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/GC/2006/8), to:

a) explicitly prohibit corporal punishment within the home, in all alternative-care settings and in penal institutions;

- b) continue to sensitize and educate parents, guardians and professionals working with and for children by carrying out public educational campaigns on the harmful effects of corporal punishment;
- c) continue to promote positive, non-violent forms of discipline as an alternative to corporal punishment;
- d) seek assistance from, among others, UNICEF and the World Health Organization (WHO).”